

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Ivan Guillermo Palomino Olivera,

Plaintiff,

v.

The Seasons Edge Landscaping, Inc. and  
Michael Ruggiero  
Defendants.

Case No. 7:23-cv-03646

Hon. Judge Nelson Stephen Roman

**PLAINTIFFS' MOTION FOR  
DEFAULT JUDGMENT  
PURSUANT TO FEDERAL  
RULE OF CIVIL PROCEDURE  
55**

Plaintiff, Ivan Guillermo Palomino Olivera ("Plaintiff"), by and through their attorney, Daniel I. Schlade, submit this Motion for Default Judgment Pursuant to Federal Rule of Civil Pro. 55, and state:

1. This is a cause of action whereby Plaintiffs seek redress for unpaid overtime wages under the Fair Labor Standards Act (29 USC § 201, et. seq.).
2. On May 13, 2023, summons for Defendant Ruggiero returned executed. Dckt. 10.
3. On May 13, 2023, summons for Defendant Seasons Edge returned executed. Dckt. 11.
4. Plaintiff requested the Court enter default against Defendants on June 15, 2023. Dckt. 14. This Request was granted on June 16, 2023. Dckt. 16.
5. Accordingly, Plaintiffs now move for a default judgment against Defendants pursuant to Federal Rule of Civil Procedure 55; in support, Plaintiffs tender supporting documents.
6. Plaintiff is now asking that a default judgment be entered in his favor in the amount of \$6,169.50 (representing unpaid wages and liquidated damages), plus reasonable attorney's fees and costs. Furthermore, pursuant to the NYLL, Plaintiff is entitled to recover unpaid minimum wages for six (6) years prior to the filing of this suit, which amount totals \$6,169.50. In addition, Defendants violation of NYLL §§ 195(1) and (2) which entitle Plaintiff to \$5,000.00. Defendants also violated NYLL § 195(3) which allow an award of \$5,000.00. See Affidavit of Prove- Up,

attached as Exhibit A

7. Additionally, Plaintiffs request an award of reasonable attorney's fees and costs of suit in the amount of \$5,415.00 pursuant to 29 USC § 216(b) of the Fair Labor Standards Act. In support thereof, attached hereto as Exhibit C is the Petition for Attorney's Fees and Costs.

8. Additionally, in support of this Motion, Plaintiff attaches: (i) a Certificate of Default, attesting to the fact that Defendants have not entered an appearance in this case (See Exhibit D); (ii) a Certificate of Military Service attesting that the individual Defendant Ruggiero is not a member of the U.S. military (See Exhibit E).

WHEREFORE, Plaintiff Ivan Guillermo Palomino Oliver, respectfully requests that this Motion be granted, and that the Court enter a default judgment in the amount of \$21,584.50 in favor of Plaintiffs and against Defendants Seasons Edge and Ruggiero, and that the Court enter any other relief deemed just or necessary.

Ivan Guillermo Palomino Olivera

s/Daniel I. Schlade  
Attorney For Plaintiff

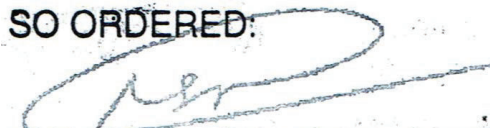
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**Plaintiff's motion for default is DENIED without prejudice subject to refiling by way of Order to Show Cause ("OSC") for default judgment. Counsel is directed to follow ECF Rule 16.3. Plaintiff shall file a "Proposed Order to Show Cause Without Emergency Relief." The supporting documents (memorandum of law, affidavit, declaration, exhibits thereto, etc.) are separately (re)filed, each document receiving its own document number on ECF, and should be linked to the proposed OSC. Counsel is directed to mail (as well as email) to Chambers a hard copy of all documents in support of the OSC. Follow all directions in the OSC. Clerk of Court is requested to terminate the motion at ECF No. 17.**

**Dated: White Plains, NY**

**October 3, 2023**

**SO ORDERED:**

  
**HON. NELSON S. ROMAN**  
**UNITED STATES DISTRICT JUDGE**